

**OPINION**  
**65-413 (Sep 23)**

September 23, 1965 (OPINION)

Mr. Lloyd Omdahl

Tax Commissioner

RE: Taxation - Use Tax - Amount Remitted

This is in response to your request for an opinion "as to whether a retailer is required to remit use tax on the entire gross receipts derived by him from sales made in and for use in this state, including the remission of use tax on the gross receipts derived by retailers from sales below twenty cents."

In the opinion of June 26, 1965, addressed to you we stated that the bracket system is to be employed in the administration of the use tax.

It is also noted that section 57-40-06 and related sections of the use tax act, and sections 57-38-09 and 57-39-10 have substantially the same provisions as to the collection of the tax as pertaining to the question at hand. In this respect section 57-40-16 provides in substance that chapter 57-39 (sales tax act) as pertaining to the administration of the sales tax act not in conflict with the provisions of the use tax act (chapter 57-40) shall apply. As to the question submitted, there is no apparent conflict between the aforementioned sections. The term "total tax sales" as used in the June twenty-sixth opinion was not used to indicate a departure from practices heretofore employed.

It is therefore our opinion that the remittance of the use tax to the Tax Commissioner should be substantially in the same manner as was employed in making remittance under the sales tax act prior to the passage of House Bill 698 by the Thirty-ninth Legislative Assembly which has been referred and disapproved.

ATTORNEY GENERAL

Helgi Johanneson